

REFERENCE TITLE: *writ of restitution; judgment*

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# **SB 1018**

Introduced by  
Senator Gray C

AN ACT

AMENDING SECTION 12-1178, ARIZONA REVISED STATUTES; RELATING TO THE WRIT OF RESTITUTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 12-1178, Arizona Revised Statutes, is amended to  
3 read:

4       12-1178. Judgment: writ of restitution: limitation on issuance:  
5                   criminal violation: notice

6       A. If the defendant is found guilty **OF FORCIBLE ENTRY AND DETAINER OR**  
7 **FORCIBLE DETAINER**, the court shall give judgment for the plaintiff for  
8 restitution of the premises, for all charges stated in the rental agreement  
9 and for damages, attorney fees, court and other costs and, at the plaintiff's  
10 option, all rent found to be due and unpaid through the periodic rental  
11 period, as described in section 33-1314, subsection C, as provided for in the  
12 rental agreement, and shall grant a writ of restitution. The person  
13 designated by the judge to prepare the judgment shall ensure that the  
14 defendant's social security number is not contained on the judgment.

15       B. If the defendant is found not guilty **OF FORCIBLE ENTRY AND DETAINER**  
16 **OR FORCIBLE DETAINER**, judgment shall be given for the defendant against the  
17 plaintiff for damages, attorney fees and court and other costs, and if it  
18 appears that the plaintiff has acquired possession of the premises since  
19 commencement of the action, a writ of restitution shall issue in favor of the  
20 defendant.

21       C. No writ of restitution shall issue until the expiration of five  
22 calendar days after the rendition of judgment. The writ of restitution shall  
23 be enforced as promptly and expeditiously as possible. The issuance or  
24 enforcement of a writ of restitution shall not be suspended, delayed or  
25 otherwise affected by the filing of a motion to set aside or vacate the  
26 judgment or similar motion unless a judge finds good cause.

27       D. A defendant who is lawfully served with a writ of restitution and  
28 who remains in or returns to the dwelling unit, as defined in section  
29 33-1310, or remains on or returns to the mobile home space, as defined in  
30 section 33-1409, or the recreational vehicle space, as defined in section  
31 33-2102, without the express permission of the owner of the property or the  
32 person with lawful control of the property commits criminal trespass in the  
33 third degree pursuant to section 13-1502.

34       E. If the defendant is found guilty ~~under subsection A of this section~~  
35 **OF FORCIBLE ENTRY AND DETAINER OR FORCIBLE DETAINER**, the court shall give the  
36 defendant notice that a defendant who is lawfully served with a writ of  
37 restitution and who remains in or returns to the dwelling unit or ~~remaining~~  
38 **REMAINS** on or returns to the mobile home space or the recreational vehicle  
39 space without the express permission of the owner of the property or the  
40 person with lawful control of the property commits criminal trespass in the  
41 third degree pursuant to section 13-1502.